

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

VINCE RANALLI, on behalf of himself and  
all others similarly situated,

2:21-CV-00088-RJC

Plaintiff,

v.

ELECTRONICALLY FILED

AMAZON.COM, LLC; ZAZZLE INC.;  
ARENA MERCHANDISING BY AND  
THROUGH AMAZON.COM, LLC;  
ETSY.COM, LLC; BRAVE NEW LOOK;  
and OUTDOOR RESEARCH,

ORAL ARGUMENT REQUESTED

Defendants.

**ETSY’S RULE 12(b)(6) MOTION TO DISMISS PLAINTIFF’S  
COMPLAINT**

AND NOW comes Defendant Etsy, Inc., incorrectly sued as Etsy.com, LLC (“Etsy”), by and through its counsel, Tucker Arensberg, P.C. and Paul Hastings LLP, and files this Rule 12(b)(6) Motion to Dismiss Plaintiff’s Complaint, averring as follows:

1. Plaintiff Vince Ranalli (“Plaintiff”) brings forth this class action suit following his alleged internet purchase of a protective face mask or covering from Etsy. *See generally* Complaint (Dkt. 1-1).

2. Plaintiff’s theories of liability are based upon the assertion that Etsy improperly charged him, and others, sales tax as part of their purchases of face masks or face coverings. Compl. ¶¶ 11-19.

3. Plaintiff alleges that Etsy’s imposition and collection of sales tax was improper, as the masks and coverings were reclassified as everyday wear/clothing due to the COVID-19 pandemic by the Pennsylvania Department of Revenue and thus exempt from Pennsylvania sales tax under 72 P.S. § 7204. *Id.* ¶¶ 11-19.

4. Plaintiff asserts the following Counts against Etsy on behalf of himself and all others similarly situated: Count V – Violations of Pennsylvania’s Unfair Trade Practices and Consumer Protection Law (“UTPCPL”), solely against Etsy as an individual defendant; Count VIII – Violations of Pennsylvania’s Fair Credit Extension Uniformity Act (“PFCEUA”) and UTPCPL against all defendants; Count IX – Misappropriation/Conversion against all defendants; and Count X – Unjust Enrichment against all defendants. Plaintiff also sets forth a claim for a permanent injunction in Count XI, asking the Court to order all defendants to cease and desist the unlawful charging of sales tax.

5. For the following reasons, set forth in detail in Etsy’s *Memorandum Of Law In Support Of Motion To Dismiss*, which is incorporated in full herein, Plaintiff’s claims fail and his case must be dismissed in full with prejudice or stayed.

6. First, Plaintiff’s claims are barred by the voluntary payment doctrine.

7. Second, Plaintiff’s common law claims (*i.e.*, for conversion/misappropriation, unjust enrichment, and permanent injunction) are barred.

8. Third, Plaintiff’s UTPCPL claims fail as a matter of law, because Etsy was not engaged in any trade or commerce, and because Plaintiff has failed to plead actionable misrepresentation or deceptive conduct, justifiable reliance, or ascertainable loss.

9. Fourth, Plaintiff’s PFCEUA claim fails as matter of law.

10. Fifth, Plaintiff’s class action claims should be stricken, or at the very least limited in time to transactions made on or after October 30, 2020.

11. Sixth, Plaintiff’s claims for punitive damages should be dismissed.

12. Finally, any stay issued by this court concerning the Pennsylvania Department of Revenue’s primary jurisdiction should apply to all defendants, including Etsy.

WHEREFORE, Defendant Etsy respectfully requests that this Honorable Court grant its motion and dismiss or stay Plaintiff's case in accordance with Etsy's Proposed Order of Court.

Respectfully submitted,  
Dated: April 9, 2021

/s/ Gary Hunt

Gary Hunt, Esq. ID# 23556  
Kathleen A. Nandan, Esq. ID# 317060  
Jonathan S. McAnney, Esq. ID# 50041  
TUCKER ARENSBERG, P.C.  
1500 One PPG Place  
Pittsburgh, PA 15222  
Tel: (412) 594-3942  
Fax: (412) 594-5619  
E-mail: ghunt@tuckerlaw.com  
knandan@tuckerlaw.com  
jmcanney@tuckerlaw.com

Kevin P. Broughel, NY 4242418 (*Pro Hac Vice*)  
Zachary Zwillinger, NY 5071154 (*Pro Hac Vice*)  
PAUL HASTINGS LLP  
200 Park Avenue  
New York, NY 10166  
Tel: 212-318-6000  
Fax: 212-319-4090  
E-mail: kevinbroughel@paulhastings.com  
zacharyzwillinger@paulhastings.com

Stephen Turanchik, CA 248548 (*Pro Hac Vice*)  
PAUL HASTINGS LLP  
515 South Flower Street  
Twenty-Fifth Floor  
Los Angeles, CA 90071  
Tel: 213-683-6000  
Fax: 213-627-0705  
E-mail: stephenturanchik@paulhastings.com

*Attorneys for Defendant Etsy, Inc., incorrectly  
sued as Etsy.com, LLC*

**CERTIFICATE OF CONFERRAL**

The undersigned counsel certifies that, in accordance with this court's order of January 21, 2021 (Dkt. 4), on April 5, 2021, counsel for Etsy made good faith efforts to meet and confer via telephone with counsel for Plaintiff to determine whether certain pleading deficiencies may be cured by amendment. Counsel for Plaintiff indicated he may file an amended complaint, but did not specify the timing of that complaint, and that Plaintiff will likely oppose this motion to dismiss.

Respectfully submitted,

**Paul Hastings LLP**

BY: /s/ Kevin P. Broughel.  
Kevin P. Broughel  
**Attorney for Defendant Etsy, Inc., incorrectly  
sued as Etsy.com, LLC**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on April 9, 2021, a true and correct copy of **ETSY’S RULE 12(b)6 MOTION TO DISMISS PLAINTIFF’S COMPLAINT** was filed with the Clerk of Courts using the CM/ECF system which will send notification of such filing to all counsel of record. This document was filed electronically and is available for viewing and downloading from the ECF system.

**Tucker Arensberg, P.C.**

BY: /s/ Gary Hunt.

Gary Hunt

**Attorney for Defendant Etsy, Inc., incorrectly  
sued as Etsy.com, LLC**